



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable George W. Cox  
State Health Officer  
Texas State Board of Health  
Austin, Texas

Dear Sir:

Opinion No. O-5146  
Re: Does Harris County Fresh Water  
Supply District #2 have legal  
authority to promulgate rules  
and regulations in regard to  
the control of sewerage and  
excreta?

We have received your recent communication together  
with the enclosed copy of an ordinance which you say was  
adopted by the Tri-City Fresh Water Supply District No. 2 of  
Harris County, Texas.

The caption appearing on said copy is as follows:

"AN ORDINANCE ESTABLISHING A SANITARY DISTRICT  
WITHIN THE TRI-CITY FRESH WATER SUPPLY DISTRICT  
NO. 2 OF HARRIS COUNTY, TEXAS (also known as  
Harris County Fresh Water Supply District #2);  
AND TO REGULATE THE SANITARY CONTROL OF SEWER-  
AGE AND EXCRETA IN SAID DISTRICT; AND PROVIDING  
A PENALTY."

Said ordinance seems to confine itself to the purposes  
and subject matter set out in said caption. However, in this  
respect, we are not here passing upon any specific provision of  
same.

Hon. George W. Cox, Page 2

In a telephone conversation with Mr. V. M. Ehlers of your department, subsequent to your communication, we were informed that you wished to withdraw your question in regard to the Harris County Health Unit.

This leaves us the task of determining your remaining query which is, in substance, as follows:

Does such Fresh Water Supply District have the legal authority to promulgate rules and regulations of this nature, that is, the control of sewerage and excreta?

We assume, for the purposes of this opinion, that such District was legally created under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, as amended, (Art. 7881 et seq., V. A. C. S., and all amendments thereto).

Chapter 4 of Title 128, Vernon's Annotated Civil Statutes, in regard to Fresh Water Supply Districts, provides in Sections 1 and 5 of Article 7930-4, V. A. C. S., as follows:

"Section 1. Fresh Water Supply Districts heretofore or hereafter created under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, as amended, and located wholly within a county having a population in excess of five hundred thousand (500,000) inhabitants according to the last preceding or any future Federal Census, in addition to the powers heretofore granted, are hereby authorized to purchase, construct, acquire, own, operate, repair, improve and extend sanitary sewer systems for the collection, transportation, processing, disposal and control of all domestic, industrial and communal wastes." (Emphasis added)

"Section 5. Such Districts shall further have the power to adopt and enforce reasonable rules and regulations relating to the installation, maintenance and operation of plumbing fixtures and facilities within such Districts, in

Hon. George W. Cox, Page 3

order to maintain safe and sanitary conditions within such Districts and to protect the lives, health and welfare of the inhabitants thereof. The Boards of Supervisors of such Districts may prescribe reasonable penalties for the breach of any rule or regulation so adopted, which penalties shall not exceed fines of more than Two Hundred (\$200.00) Dollars or imprisonment in jail for more than thirty days, or both such fines and imprisonment, which penalties shall be in addition to other penalties provided by law and may be enforced in any Court of proper jurisdiction in the County in which the District's principal office is located; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to the enforcement of the penalty, until a brief, substantial statement of such rule or regulation and the penalty for the violation thereof is published once a week for two consecutive weeks in a newspaper of general circulation in the area in which such District is situated. Seven (7) days after the second publication, the penalty or penalties provided shall be effective, and such rules and regulations shall be judicially known to the Courts. (Emphasis added)

"Such Districts shall be authorized to employ and constitute their own peace officers, who shall be endowed with power to make arrests for the commission of any offense against the rules and regulations of the District or against the laws of the State of Texas when any such offense or threatened offense occurs within the boundaries of said Districts."

Harris County has a population of 528,961, according to the Federal Census of 1940.

It is our understanding from our communication with your department that said Tri-City Fresh Water Supply District No. 2 is located wholly within the County of Harris.

Therefore, in view of the specific language of the

Hon. George W. Cox, Page 4

statutes pointed out herein, we answer your question in the affirmative.

We herewith respectfully return your enclosure.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Robert L. Lattimore Jr.*  
Robert L. Lattimore, Jr  
Assistant

*W. J. Blackburn*  
APPROVED JUL 15 1944  
ATTORNEY GENERAL OF TEXAS

HLL:fo  
Encl.



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